

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
AMERICAN E GROUP LLC,	:	
	:	
	Plaintiff, :	1:18-cv-3969-GHW
	:	
-against-	:	<u>ORDER</u>
	:	
LIVEWIRE ERGOGENICS INC.,	:	
	:	
	Defendant. :	
	:	
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USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 6/11/2019

GREGORY H. WOODS, District Judge:

For the reasons stated on the record during the conference held on June 5, 2019, Mr. Milazzo's motion to withdraw as counsel for plaintiff/counterclaim defendant American E Group LLC is GRANTED.

As the Court explained during the conference, corporate entities—such as American E Group LLC—*must* appear before the Court through counsel. *See Rowland v. California Men's Colony*, 506 U.S. 194, 201-02 (1993). In other words, American E Group LLC *must* retain an attorney should it wish to prosecute this case or defend against the counterclaims asserted against it. Replacement counsel for American E Group LLC must enter a notice of appearance in this case no later than July 5, 2019. If no attorney enters an appearance on behalf of American E Group LLC by that date, the Court may dismiss its action for failure to prosecute. *See Glob Auto, Inc. v. Hitrinov*, No. 13-cv-2479 (SLT) (RER), 2015 WL 5793383, at *5 (E.D.N.Y. Sept. 30, 2015) (explaining that “[d]istrict courts in this Circuit have exercised their discretion to dismiss an action for failure to prosecute where a corporate plaintiff fails to obtain counsel after being directed to do so and being warned of the consequences of inaction.”); *see also United States ex rel. Reliable Constr. PM, Inc. v. Land Frog, Inc.*, No. 13-CV-7351 (ARR)(CLP), 2015 WL 740034 (E.D.N.Y. Feb. 20, 2015); *Negrin v. Kalina*, No. 09 Civ. 6234 (LGS), 2013 WL 5925916 (S.D.N.Y. Nov. 5, 2013).

Equally, if no attorney enters an appearance on behalf of American E Group LLC by that date, the Court may enter a default against it for failure to defend against the counterclaims asserted against it in this case. *See Sec. & Exch. Comm'n v. Research Automation Corp.*, 521 F.2d 585, 589 (2d Cir. 1975) (“It is settled law that a corporation may not appear in a lawsuit against it except through an attorney, and that, where a corporation repeatedly fails to appear by counsel, a default judgment may be entered against it pursuant to Rule 55[.]”); *see also, e.g., City of New York v. Mickalis Pawn Shop, LLC*, 645 F.3d 114, 129, 130 (2d Cir. 2011). If the Court enters a default against American E Group LLC, counterclaim plaintiff may seek a default judgment from the Court under Federal Rule of Civil Procedure 55(b).

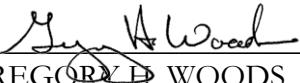
The case is STAYED through July 5, 2019 to allow American E Group LLC to retain replacement counsel. In the event that American E Group LLC retains new counsel prior to July 5, 2019, the stay will be lifted upon the filing of a notice of appearance by that counsel.

Upon American E Group LLC's retention of new counsel, the parties are directed to confer and to file a joint status letter updating the Court on the case's progress. That letter is due no later than one week after American E Group LLC's new counsel has filed its notice of appearance.

The Clerk of Court is directed to terminate the motion pending at Dkt. No. 122, to remove Christopher P. Milazzo from the list of counsel on the docket, and to indicate on the docket that this case is stayed. The Clerk of Court is further directed to update the docket to reflect the following as the address for American E Group LLC: 119 82nd Avenue, Kew Gardens New York, New York.

SO ORDERED.

Dated: June 11, 2019
New York, New York



GREGORY H. WOODS
United States District Judge